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OFFICE OF PETITIONS

In re Application of
ABESHOUSE et al.
Application No. 09/710,097
Filed: November 10, 2000
Attorney Docket No. 046700-5015

DECISION
ON PETITION

This is a decision on the petition filed March 17, 2005, which is being treated as a request under (1) 37 CFR 1.181(no fee), for withdrawal of the holding of abandonment, or alternately, (2) 37 CFR 1.137(b), for revival of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is vacated, and this application restored to pending status.

The petition under 37 CFR 1.137(b) is **DISMISSED** as being moot.

In support of the petition, petitioner includes a copy of the reply with an executed certificate of mailing bearing the date of June 26, 2003, along with an itemized postcard receipt showing a USPTO date stamp of June 30, 2003.

According to MPEP 503, an itemized postcard receipt will be accepted as prima facie evidence of receipt in the USPTO of allegedly missing correspondence. Accordingly, the evidence submitted with the petition is convincing that the correspondence was timely entrusted to the USPS, and subsequently misplaced after receipt at the USPTO. The holding of abandonment is withdrawn, and this application is recognized as never having been abandoned in the first instance.

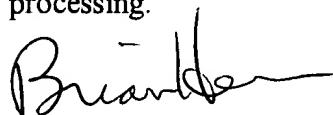
It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The petition fee of \$1500 for the petition to revive based on 37 CFR 1.137(b) is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 3624 for further processing.

A handwritten signature in black ink, appearing to read "Brian Hearn", with a stylized flourish at the end.

Brian Hearn
Petitions Examiner
Office of Petitions

cc: Lester Vincent
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